

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

C.W.P. No.10422 of 2005

Date of Decision: 17.10.2006.

T.C.Garg.

...Petitioner.

Versus

Chandigarh Administration & ors.

...Respondents.

CORAM : Hon'ble Mr. Justice M.M.Kumar.
Hon'ble Mr. Justice M.M.S.Bedi.

Present:- Mr.Aman Bahri,Advocate
for the petitioner.

Mr.K.K.Gupta ,Advocate,
for the respondents.

M.M.Kumar, J.(ORAL)

Learned counsel for the petitioner has placed reliance on order dated 5.10.2005 passed in C.W.P. No.9987 of 2004 along with bunch of other petitions. A copy of the order is taken on record as Mark `A'.

Learned counsel for the petitioner states that he would be satisfied if an opportunity be given to the petitioner to re-agitate the matter before the highest authority and the matter be remanded back to that authority as has been done in the afore mentioned bunch of the petitions.

It is admitted position that the petitioner is in occupation of the site for a long time and therefore the request made by learned counsel for the petitioner deserves to be disposed of in the same terms as was done by the Division Bench, while disposing of C.W.P. 9987 of 2004. It was noticed by the Division Bench that as a one time measure, in the peculiar

facts and circumstances of those cases, the matter was being remanded back and the remand of the matter should not be construed by any of the parties, as a reflection on merits of the cases, which are put forward by either side. The afore mentioned contention has been noticed on the basis that remedy of review is not available under the Capital of Punjab (Development & Regulation) Act, 1952. The Division Bench after noticing the aforementioned factual position has observed as under:

“Keeping in view the overall interest of all the parties concerned, we are of the opinion that the matter can be remanded back to the highest authority, as a one time measure, in the peculiar facts and circumstances of these cases. Since we are remanding the matter back to enable the highest authority to review all the cases, it would not be necessary to set aside the impugned orders. In case, the review applications of individual petitioners are accepted, undoubtedly, the impugned orders would be set aside by the highest authority. In case, the review application is dismissed in a particular matter, naturally, the impugned order will be maintained. It has been, however, pointed out by Mr. Ram Saran Dass, learned counsel appearing for some of the petitioners, that eviction proceedings under the

Public Premises (Eviction of Unauthorised Occupants) Act, 1971 are pending on the basis of the orders of resumption. The petitioners are at liberty to move an application for stay of the aforesaid proceedings by bringing to the notice of the Court of competent jurisdiction the orders passed by us today.”

In view of the above the impugned order dated 13.10.2004 (Annexure P-5) is set aside and the matter is remanded back to the highest authority. Let the exercise of re-consideration be completed within a period of three months from the date of submission of certified copy of this order. The petitioner shall be heard before the orders are passed afresh by the highest authority. The petition stands disposed of in the above terms.

(M.M.KUMAR)
JUDGE

(M.M.S.BEDI)
JUDGE

Oct 17,2006.
Reema